

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 369 of 2011

Wednesday, this the 4th day of July, 2012

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

1. Beena Chandy, aged 49 years,
 W/o. Varghese Antony,
 Senior Sub Divisional Engineer/BSNL, Harippad,
 Residing at : Kollamparambil, Anaparambal North,
 Thalavady (PO), Alleppey District, Pin-689 5677.
2. Moncy V. Thomas, aged 50 years,
 S/o. V.M. Maman,
 Senior Sub Divisional Engineer/Phones/BSNL, Kavalam,
 Residing at : Valamparambil House,
 Perunna (PO), Changanacherry.
3. Regi Thomas, aged 50 years,
 S/o. Thomas M.A., Senior Sub Divisional Engineer/
 P-Group/BSNL, Ponkunnam,
 Kanjirappally Taluk, Residing at : Mattackal House,
 Nariyanani (PO), Ponkunnam, Kottayam District, Pin-686 506.
4. T.P. Chandra Babu, aged 51 years,
 S/o. K. Achuthan Nambiar (Late),
 Senior Sub Divisional Engineer/BSNL/Nenmara,
 Palakkad District, Residing at : No. 5/27-B, Aiswarya Colony,
 Pudunagaram Post, Palakkad District,
 Pin-678 503.

..... **Applicants**

(By Advocate – Mr. T.C. Govindaswamy)

V e r s u s

1. The Chairman and Managing Director,
 Bharat Sanchar Nigam Ltd. (BSNL), Corporate Office, New Delhi.
2. The Chief General Manager (Telecom),
 Bharat Sanchar Nigam Ltd., Kerala Circle, Trivandrum.
3. Smt. Leena Rose Thomas, Sub Divisional Engineer,
 E10B, Medical College Telephone Exchange,

Bharat Sanchar Nigam Ltd., Trivandrum.

4. Smt. Padmaja K.U., Sub Divisional Engineer, EB, BSNL Bhavan, Kalathilparambil Road, Ernakulam.
5. Shri Ravichandran V., Divisional Engineer (OFC), Bharat Sanchar Nigam Limited, Central Telephone Exchange Building, Pattalam Road, Trichur-680 001.
6. Smt. Jayasree Sreedharan, Divisional Engineer (Urban), Bharat Sanchar Nigam Limited, Telephone Exchange Building, Velliattambalam, Kollam – 691 012. **Respondents**

**[By Advocates – Mr. George Kuruvilla (R1&2)
Mr. M.R. Hariraj R3-5 – Not present]**

This application having been heard on 04.07.2012, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. Justice P.R. Raman, Judicial Member-

The applicants are the employees of the Bharat Sanchar Nigam Limited. They challenge Annexure A1 and A8. Annexure A8 is an order by which promotions were given to the party respondents to the post of Divisional Engineer (Officiating). The main ground of attack against Annexure A8 is that the seniority list as directed in Annexure A7 judgement has not been drawn up and without drawing up a seniority list promotions effected is clearly illegal and contrary to the position enjoyed by the applicants in the seniority. Annexure A7 is a judgement rendered by this Tribunal in OA No. 16 of 2009. That was filed by the applicant therein challenging the provisional seniority list. This Tribunal after an elaborate discussion of the rival contentions between the parties and after referring to



the materials produced in the case held as follows:-

“6. We have heard learned counsel for the applicant and learned counsel for the respondents. Admittedly the Annexures A-5 and A-6 seniority lists have not attained their finality. They are still at the provisional stage. Therefore, the objection of limitation raised by the respondents have no force. Moreover, the issue involved in this OA is on the principle adopted by the respondents in determining the seniority of candidates promoted to the post of TES Group-B officers. In our considered view the order of the Chandigarh Bench of this Tribunal in the case of Dewan Chand (supra) is directly on the said issue. It has been specifically held in that order that the seniority of the incumbents have to be determined on the basis of the dates of their actual joining and not on notional basis by allotment of slots. The aforesaid position of law has also been confirmed by a Co-ordinate Bench of this Tribunal in the case of V. Govindan (supra). We, do not find any valid reasons for any departure from the aforesaid two decisions. Accordingly, we quash and set aside the Annexures A-5 and A-6 provisional seniority lists Nos. 6 & 7 of TES Group-B officers issued on 28.7.2004 and 2.12.2004 respectively. The respondents shall recast the seniority on the basis of the order of the Chandigarh Bench of this Tribunal in Dewan Chand's case (supra) followed by the order of this Tribunal in V. Govindan's case (supra). They shall issue revised provisional seniority lists of TES Group-B officers and invite objections/representations, if any, from the persons concerned within four months from the date of receipt of a copy of this order. Further, the respondents shall consider the objections/representations, if any, received and issue the final seniority lists within two months, thereafter.”

2. Thus, the official respondents are bound to prepare a revised seniority list after inviting objections and representations, if any, from the persons concerned. Admittedly that has not been done in view of the pendency of the OP (CAT) No. 175 of 2010 pending before the Hon'ble High Court against the order in Annexure A7.

3. When the matter was taken up for consideration today, learned counsel appearing for the applicants placed a copy of the judgement passed by the Hon'ble High Court dismissing the Original Petition. Thus Annexure A7



order has become final as far as this Tribunal is concerned.

4. In view of the relief already granted in Annexure A7 and in view of the admitted position that the official respondents have not drawn up the seniority list as directed in Annexure A7, the promotions of the party respondents are set aside and the promotions will be effected after drawing up a seniority list as directed in Annexure A7. We are not expressing any opinion on the seniority position of the applicants vis-a-vis the party respondents in this case and the same is left open to be decided in case the occasion arises in appropriate proceedings after the final seniority list is prepared by the official respondents as directed by this Tribunal in Annexure A7.

5. Accordingly, the Original Application is allowed as above. No order as to costs.


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER


(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

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